

STATE OF NEW HAMPSHIRE  
WATER COUNCIL

Docket No. 03-10-WC

RECEIVED

AUG 15 2005

Appeal of the Conservation Law Foundation  
In Re: Water Quality Certificate No. 2003-001

**CONSERVATION LAW FOUNDATION'S**  
**UPDATED WITNESS AND EXHIBIT LISTS**

NOW COMES the Conservation Law Foundation (CLF) and respectfully submits the following Witness and Exhibit Lists, updated to include materials provided by the Department of Environmental Services on August 9, 2005:

Witnesses:

1. Laura Deming, N.H. Audubon
2. Paul Currier, NH Department of Environmental Services (DES)
3. Paul Piszczek, DES
4. Ridgley Mauck, DES
5. Greg Comstock, DES
6. David Burdick, UNH Jackson Estuarine Laboratory
7. CLF reserves the right to call any witnesses identified in the witness lists

submitted by DES and the applicant.

8. CLF reserves the right to supplement this witness list in light of discovery and RSA 91-A requests pending with DES.

Exhibits:

1. Report of Laura Deming, N.H. Audubon, re: May 2005 site visit.
2. Photographs from May 2005 site visit of Laura Deming.

3. Affidavit and November 14, 2003 Report of David Burdick, Jackson Estuarine Laboratory.
4. Best Management Practices to Control Nonpoint Source Pollution, A Guide for Citizens and Town Officials (Jan. 2004), NHDES.
5. Plan of proposed Falls Way subdivision.
6. Buffers for Wetlands and Surface Waters, A Guidebook for New Hampshire Municipalities (Nov. 1995, Revised May 1997).
7. January 3, 2003 letter from Steve Miller, Great Bay National Estuarine Research Reserve, to Dori Wiggin, NH DES.
8. April 3, 2003 letter from Steve Miller, Great Bay National Estuarine Research Reserve, to Dori Wiggin, NH DES.
9. Environmental Fact Sheet #NHDES-WRD-1996-6, Atlantic White Cedar Communities.
10. Handwritten "Falls Way Subdivision Notes" dated June 20, 2003.
11. NH DES Watershed Bureau Administrative Record Re: 401 Certificate #2003-001, including but not limited to the following excerpts:
  - 401 Certificate #2003-001;
  - July 17, 2003 letter from NH DES to CLF;
  - July 10, 2003 letter from Grace Bottitta to Tom Irwin;
  - July 11, 2003 letter from William Ingham, New Hampshire Fish and Game Department, to Adele Fiorillo, NH Soil Consultants;
  - June 20, 2003 letter from CLF to NH DES Watershed Management Bureau;


- April 7, 2003 letter from Laura Deming, New Hampshire Audubon Society, to Dori Wiggin, NH DES;
  - September 17, 1999 Decision letter from NH DES to David DesFosses regarding Great Bog, Portsmouth, New Hampshire;
  - “Bonding with Blanding’s,” New Hampshire Fish and Game Department Wildlife Journal (May/June, 2000);
  - April 7, 2003 letter from Frederick T. Short, Ph.D., University of New Hampshire, to Thomas F. Irwin, CLF;
  - May 14, 2003 letter from Carl DeLoi, United States Environmental Protection Agency, to Christine Godfrey, U.S. Army Corps of Engineers;
  - April 5, 2003 letter from David Carroll to Tom Irwin;
  - April 2, 2003 letter from Grace Bottitta to Tom Irwin;
  - March 19, 2003 Decision letter from NH DES to Endicott General Partnership regarding NH DES File #2002-1268;
12. June 27, 2003 Internal Memorandum from Gregg Comstock to Paul Currier, Paul Piszczek.
13. Undated internal outline prepared by DES regarding comments submitted by CLF.
14. June 23, 2003 e-mail from Paul Currier, including embedded e-mail communications.
15. July 9, 2003 email from Paul Currier to Paul Piszczek, Gregg Comstock, including embedded e-mail communications.

16. July 9, 2003 e-mail from Paul Currier to Gregg Comstock, including embedded e-mail communications.
17. April 25, 2003 letter from Paul Piszczek to Endicott General Partnership
18. Draft 401 Water Quality Certificates
19. CLF reserves the right to supplement the above exhibit list with additional evidence obtained through discovery and RSA 91-A requests currently pending with the Department.
20. CLF reserves the right to admit into evidence any exhibit identified in the Exhibit Lists of the Department and applicant.

Respectfully submitted,

Conservation Law Foundation

By

  
Thomas F. Irwin, Esq.  
27 North Main Street  
Concord, NH 03301  
(603) 225-3060

Date: August 12, 2005

CERTIFICATE OF SERVICE

A copy of this pleading has this day been forwarded via U.S. Mail to Jennifer J. Patterson, Esq., and Malcolm R. McNeill, Jr., Esq.

  
Thomas F. Irwin